



California Fair Political Practices Commission

October 5, 1989

Arthur Forcier
11783 Laurelcrest Dr.
Studio City, CA 91640

Re: Your Request for
Informal Assistance
Our File No. I-89-512

Dear Mr. Forcier:

You have requested advice concerning the campaign provisions of the Political Reform Act (the "Act").^{1/} Your letter asks several general and hypothetical questions which were asked in your letters of January 24, 1989, February 6, 1989 and February 16, 1989. We refer you to our letters of March 13, 1989 and March 31, 1989, Nos. I-89-058 and I-89-157, respectively, which answered those questions. In addition, you asked three new hypothetical questions which we consider to be requests for informal assistance pursuant to Regulation 18329(c) (copy enclosed).^{2/}

QUESTIONS

1. May an officeholder or candidate hold fundraisers for other candidates or non-candidate PACs^{3/} if the persons attending the fundraisers write checks directly to the other candidates or committees.

1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

2/ Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Sections 18329(c) (3).)

3/ For purposes of this discussion, we will assume that your letter is referring to "general purpose recipient committees" as defined in Sections 82013(a) and 82027.5, which qualify as "political committees" (Section 85102(c)) or "broad based political committees" (Section 85102(d)) for purposes of the contribution limitations.

2. May a political committee which gave its maximum contributions to a candidate also make independent expenditures on behalf of the same candidate?

3. May a political committee making independent expenditures on behalf of a candidate give advice to the candidate's controlled committee regarding expenditures to be made by the controlled committee?

DISCUSSION

1. The Act prohibits candidates and officeholders from transferring campaign funds to another candidate or officeholder. (Section 85304.) Paying the expenses of a fundraiser for another candidate would constitute an in-kind "contribution" to the candidate and is therefore prohibited. (Sections 82015, 82044.) The Act also prohibits candidates from making contributions to committees which make contributions to candidates. A candidate may make contributions to committees which do not make contributions to candidates.

2. The Act places no limit on the making of independent expenditures regardless of the making of contributions to the beneficiary of the independent expenditure.

3. The answer to this question will depend on the specific facts involved. The Act does not prohibit a person who is making independent expenditures on behalf of a candidate from advising the candidate regarding other activities. However, Regulation 18215(b) provides that an expenditure made at the behest of a candidate is a "contribution." An expenditure is made at the behest of a candidate if it is "made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of a candidate." Therefore, if the political committee were to advise a candidate regarding expenditures which were related to or made in conjunction with the political committee's expenditures, the candidate may be receiving a contribution.

If you have any questions about this letter, please call me at (916) 322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Wayne P. Imberi
Political Reform Consultant

KED:WPI:eab

Enclosure

AFT College Guild

Local 1521, American Federation of Teachers, AFL-CIO / 617 West 7th Street / Suite 610 / Los Angeles, CA 90017 / (213) 629-1631

89-512

August 25, 1989

Aug 29 8 50 AM '89
FPPC

Fair Political Practices Committee
P.O. Box 807
Sacramento, CA 95804

To Whom It May Concern:

Do California's present election laws permit individuals or organizations or PACs to conduct independent campaigns in support of or in opposition to a candidate?

If a candidate is a member of the executive board that controls a PAC, can the PAC legally say it is running a campaign that is independent of the candidate, or is the fact that the candidate is an executive board member automatically create a situation of non-independence?

Can members of an independent PAC running an independent campaign also advise the candidate as to the expenditures that should be made by the candidate's own controlled PAC?

If it is legally possible to run an independent campaign in support of a candidate, despite the candidate being an executive board member, would any of the following circumstances affect the interpretation concerning the independence factor?:

- a) Ten percent of the executive board members are significant members of the candidate's campaign,
- b) the candidate doesn't attend executive board meetings,
- c) the candidate significant campaign supporters don't attend executive board meetings, and
- d) the executive board appropriates money for an independent campaign but has the organization staff determine how the money is to be spent without guidance from the candidate or the executive board and without the candidate or the executive board knowing how the money has been spent.

Can one work with a candidate on one or more programs and run other programs in support of the candidate without discussing them with the candidate and be considered to be independent on the non-discussed programs, e.g., work together on three-mailing programs but do a fourth-mailing program independently?

Are there limits to independent expenditure in terms of amounts of money or as to types of media used such as radio or billboards or mail or as to types of voters such as members of the PAC organization or all voters, etc.?

In determining the value of a mailer, is the value divided equally among all candidates supported on the mailer or is it divided according to space allocation or type size or colors used or location or art work, etc.?

For example, if one has six candidates on \$6,000 mailer and each has equal space, is \$1,000 allocated to each candidate? If say the mayoral candidate has 90% of the space, does that mean that it is a \$5,400 non-monetary contribution and in violation of non-independent non-monetary contributions rules? Would it violate independent non-monetary expenditures? What if there are six candidates on a \$6,000 mailer but three of the candidates are running in the city of Los Angeles (about 1.5 million voters) and three are running in an area larger than the city (say 3 million voters)? Does that mean the three in the city are allocated about \$650 each and the three in the larger area about \$1,300 each?

If one refuses to pay the first price a vendor asks and he/she lowers the price, is that a contribution or expenditure by the vendor? How is that valued? Can there be different prices according to importance of an office or measure?

Are there limits to the amount of an individual's contributions to a broad-based PAC? If yes, what is it?

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Are there limits to the amount of a broad-based PAC's contribution to a PAC? If yes, what is it?

Can an elected official serve on the Board of Directors of an organization that contributes to candidates for California state and local political offices? Does it make a difference as to whether or not the elected official has or has not filed a statement of organization or has or has not a PAC I.D. number or has or has not filed an intention to run for an office? (I may be talking about forms 410, 501 and 502, but I'm not sure).

Do all these factors apply to candidates for and or members of the Democratic or Republican County Central Committees?

Can the union move money, e.g., \$25,000 from union dues money to its COPE PAC?

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Fair Political Practices Committee
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Can the union lend money to its COPE PAC?

Can a \$100,000 loan made by one of the union's executive board (The Faculty Guild executive board in 1987 be forgiven in 1988? Can it be renegotiated or rewritten as to its terms?

If a mailer has non-political and/or non-electoral information does that reduce the non-monetary contribution value of a mailer to one or more candidates that might also be part of the mailer?

What are the elements or qualifications or ingredients for a PAC?

If a professional provides a voluntary service to a candidate in the professional's field of expertise, and he doesn't get paid by anyone for that service, (e.g., a lawyer) is that a non-monetary contribution to the candidate? If the professional is paid, is it a non-monetary contribution?


Can an office-holder or candidate give a fund raiser with the money (checks) going directly to other candidates or a non-candidate PAC?

Does the fact of giving \$5,000 to a candidate (broad-based PAC contribution) bar independent activity by the broad-based PAC?

Can members of an independent PAC running an independent campaign also advise the candidate as to the expenditures that should be made by the candidate's own controlled PAC?

It would be very much appreciated if you would also send any pamphlets, papers, or manuals concerning existing election laws and interpretations as well as the answer to the specific questions. Thank you very much. The answers are needed as soon as possible for redistribution at a meeting.

Sincerely,



Arthur Forcier
AFT College Guild

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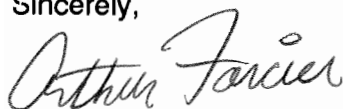
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Arthur Forcier
AFT College Guild

opeiu:30afl-cio/rm



California Fair Political Practices Commission

August 29, 1989

Arthur Forcier
AFT College Guild
617 West 7th Street, Suite 619
Los Angeles, CA 90017

Re: Letter No. 89-512

Dear Mr. Forcier:

Your letter requesting advice under the Political Reform Act was received on August 29, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Jeanne Pritchard
Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

JP:plh